

**Notice of Allowability**

**Application No.**

09/723,759

**Examiner**

Dwayne K Handy

**Applicant(s)**

SHUMATE ET AL.

**Art Unit**

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the arguments/papers submitted 02/02/2004.
2. ☒ The allowed claim(s) is/are 1-5.
3. ☒ The drawings filed on 02/02/2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 2/2/2004. These drawings are acceptable and have been added to the file.

### ***Terminal Disclaimer***

2. An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c). The Terminal Disclaimer submitted by applicant on 2/2/2004 was not signed by an attorney of record for this case. The rejection of the Terminal Disclaimer means that the patent term of the resulting patent will not be affected even though the instant case was still allowed. See below.

### ***Response to Arguments***

3. Applicant's arguments, filed 2/2/2004, with respect to the assignment of the reference "Stylli et al." have been fully considered and are persuasive. The rejection of claims 1-5 has been withdrawn. Applicant submitted papers which detail Aurora as the assignee of both the instant invention and U.S. Patent 5,985,214 - the aforementioned reference. This disqualifies the patent as prior art under U.S.C. 102(e).

***Allowable Subject Matter***

4. Claims 1-5 are allowed.

5. The following is an examiner's statement of reasons for allowance: In claim 1 applicant claimed a process for adding to and removing from a stack of lidded microplates. The process is comprised of adding a second microplate to an already existing stack by elevating the second microplate with support features until the second microplate supports the first microplate above it ***where the support features are accommodated by a pair of inwardly directed recesses in the lid of the second microplate.*** The support features are then separated to allow passage of the second microplate. The second microplate is then elevated to a first height. The support features are then inserted beneath the second microplate while an elevator is lowered so the stack is supported via the support features and the second microplate. The steps are then repeated starting with the insertion of a third microplate in place of the second microplate now being held by the support features. The Examiner did not find prior art that taught or suggested a stacking method that includes the support features interacting with inwardly directed recesses in the lid of a microplate.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

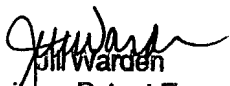
Art Unit: 1743

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne K Handy whose telephone number is (571)-272-1259. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DKH  
May 17, 2004

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700